IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

CRIMINAL APPLICATION NO.4485 OF 2006

Elias Marshall D'Souza .. Applicants.

And Others.

V/s.

The State of Maharashtra .. Respondent.

Shri.A.P.Mundargi with Shri.S.D.Nangre & Ranjeet Pawar for the apllicant.

Shri.S.S.Pednekar, A.P.P. for the State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 18TH DECEMBER, 2006.

P.C.:

1. The applicants earlier apprehended their arrest in C.R.No.271 of 2006 now included by E.O.W. Crime Branch, Nashik applied for pre-arrest bail by filing Criminal Application No.4161 of 2006. That application has been withdrawn on 11th December, 2006.

2. During the period granted by this court to surrender, the applicants have accordingly arranged to clear the loan of Rs.1,41,42,992/-. It has been transferred from their sister company's account to the credit of outstanding Loan Account and remaining balance amount has been made good by forwarding fixed deposits which could have been encashed by the applicants alone. Upon releasing this amount the entire outstanding is cleared, according to Shri.Mundargi.

3. The learned A.P.P. after taking instructions has pointed out that "no dues" certificate has been issued since the amount has been cleared. The loan amount is Rs.1,41,43,358/-.

4. In the peculiar facts of this case and since the amount is paid, nothing being not pointed about requirement of custodial interrogation, that I need not decide the larger controversy about the maintainability of the second anticipatory bail application in this court. In the peculiar facts of this case and since the subsequent developments have resulted in clearance of the dues, the applicants are granted pre-arrest bail.

5. Hence, the following order : -

i) In the event of the arrest of applicants in connection with C.R.No.271 of 2006 registered with Panchvati Police Station now transferred to E.O.W., Crime Branch, Nashik, they shall be enlarged on bail in the sum of Rs.50,000/- each (Rs.Fifty thousand only) with one or two sureties in the like amount.

ii) The bail is granted subject to condition that the applicants to forthwith surrender their passport, if any, to the I.O. Applicants shall not leave Nashik city without permission of trial court. The applicant shall report to E.O.W. Crime Branch, Nashik once a week on every Monday between 11.00 a.m. and 1.00 p.m. till the charge sheet is filed and thereafter as directed by the trial court till conclusion of trial.

iii) Bail is granted subject to condition that the applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation

against him so as to dissuade him from disclosing such facts to the Court or to the police officer/investigating agency. The applicants shall not tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will ensure to the benefit of the applicant only till chargesheet is filed. Thereafter, he will be free to apply to the appropriate court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

6. Needless to state that the applicants would be at liberty to move trial court and seek its prior permission in case they desire to travel abroad.

(S.C.Dharmadhikari, J.)